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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

21 CALIFORNIA COALITION FOR WOMEN
22 PRISONERS et al.,
23 Plaintiffs,
24 v.
25 UNITED STATES OF AMERICA FEDERAL
26 BUREAU OF PRISONS et al.,
27 Defendants.

Case No. 4:23-cv-04155-YGR

**DECLARATION OF ERNEST
GALVAN IN SUPPORT OF
PLAINTIFFS' EX PARTE REQUEST
FOR ENLARGEMENT OF TIME
UNDER FED. R. CIV. P. 6(b) &
4(i)(4)(B)**

Judge: Hon. Yvonne Gonzalez Rogers

Trial Date: None Set

1 I, Ernest Galvan, declare:

2 1. I am an attorney duly admitted to practice before this Court. I am a partner
 3 in the law firm of Rosen Bien Galvan & Grunfeld LLP, counsel of record for Plaintiffs. I
 4 have personal knowledge of the facts set forth herein, and if called as a witness, I could
 5 competently so testify. I make this declaration based in support of Plaintiffs'
 6 PLAINTIFFS' EX PARTE REQUEST FOR ENLARGEMENT OF TIME UNDER FED.
 7 R. CIV. P. 6(b) & 4(i)(4)(B).

8 2. Plaintiffs have attempted to serve Defendant **Darrell Smith** on this matter as
 9 follows:

10 a. In compliance with FRCP Rule 4(i)(3) we served the United States for
 11 Defendant Smith on September 14, 2023 (United States Attorneys' Office) and September
 12 18, 2023 (Attorney General of the United States).

13 b. On September 14, 2023, a copy of the Complaint, Summons dated
 14 September 13, 2023, Judge Gonzalez Rogers' Standing Order and Standing Order for All
 15 Judges re Joint Case Management Statement (hereinafter "Smith Documents 1") was sent
 16 via certified mail to Mr. Smith at the address where we believe he is residing in Florida.
 17 The United States Postal Service (hereinafter "USPS") attempted to deliver the "Smith
 18 Documents 1" to Mr. Smith's residence on September 18 and September 19, 2023. Notices
 19 were left at this address on both occasions because no authorized recipient was available.
 20 The USPS sent a reminder to Mr. Smith on September 23, 2023 to schedule redelivery of
 21 the item. Since the envelope remained unclaimed, the USPS initiated the return of the
 22 "Smith Documents 1" to our Firm on October 3, 2023 and we received the envelope of
 23 materials on October 26, 2023. Attached hereto as **Exhibit A** is a true and correct copy of
 24 the USPS Tracking.

25 c. On October 27, 2023, a copy of the Complaint, Summons dated
 26 October 26, 2023, Judge Gonzalez Rogers' Standing Order and Standing Order for All
 27 Judges re Joint Case Management Statement (hereinafter "Smith Documents 2") was sent
 28 via certified mail to Mr. Smith at the address where we believe he is residing in Florida.

1 The USPS attempted to deliver the “Smith Documents 2” to Mr. Smith’s residence on
 2 November 3, 2023. Notice was left at this address because no authorized recipient was
 3 available. The USPS sent a reminder to Mr. Smith on November 8, 2023 to schedule
 4 redelivery of the item. Since the envelope remained unclaimed, the USPS initiated the
 5 return of the “Smith Documents 2” to our Firm on December 4, 2023. Attached hereto as
 6 **Exhibit B** is a true and correct copy of the USPS Tracking.

7 d. On November 13, 2023, Plaintiffs initiated personal service of the
 8 “Smith Documents 2” on Mr. Smith via Ace Attorney Service at the address where we
 9 believe he is residing in Florida. The process server attempted to serve Ms. Smith on three
 10 separate occasions: November 20, November 22, and November 25, 2023; they were
 11 unsuccessful on each attempt. Attached hereto as **Exhibit C** is a true and correct copy of
 12 the email correspondence from Ace Attorney Service to our Firm providing a status update
 13 of the service attempts on Mr. Smith with the address redacted.

14 e. On December 4, 2023, Ace Attorney Service attempted to serve the
 15 “Smith Documents 2” on Mr. Smith. Again, they were unsuccessful. Attached hereto as
 16 **Exhibit D** is a true and correct copy of the email correspondence from Ace Attorney
 17 Service to our Firm providing a status update on this attempt at service with the address
 18 redacted.

19 f. Ace Attorney Service again attempted to serve the “Smith Documents
 20 2” on Mr. Smith on January 8 and January 10, 2024 with no success. Attached hereto as
 21 **Exhibit E** is a true and correct copy of the email correspondence from Ace Attorney
 22 Service to our Firm providing a status update on these attempts at service with the address
 23 redacted.

24 g. Ace Attorney Service again attempted to serve the “Smith Documents
 25 2” on Mr. Smith on January 16 and January 18, 2024 with no success. Attached hereto as
 26 **Exhibit F** is a true and correct copy of the email correspondence from Ace Attorney
 27 Service to our Firm providing a status update on these attempts at service with the address
 28 redacted.

2 h. On or about January 17, 2024, I emailed Defendant Smith's counsel in
3 the matter *United States v. Smith*, No. 23-CR-00110 YGR, to confirm the address and to
4 ask whether counsel would accept service on his behalf. On or about January 26, 2024, I
5 received a response confirming the address but declining to accept service. Attached
6 hereto as **Exhibit G** is a true and correct copy of these two emails with the address
7 information redacted.

3. Plaintiffs have attempted to serve Defendant **Nakie Nunley** on this matter as
3 follows:

9 a. In compliance with FRCP Rule 4(i)(3) we served the United States for
10 Defendant Nunley on September 14, 2023 (United States Attorneys' Office) and
11 September 18, 2023 (Attorney General of the United States).

12 b. Plaintiff has attempted to serve a copy of the Complaint, Summons
13 dated September 13, 2023, Judge Gonzalez Rogers' Standing Order and Standing Order
14 for All Judges re Joint Case Management Statement (hereinafter "Nunley Documents") on
15 Defendant Nakie Nunley via Ace Attorney Service on September 19, 2023 at the address
16 where we believe he is residing in Fairfield, California. The process server was informed
17 by a woman who spoke through a screen door that she had recently purchased the house
18 and moved in the prior month and had no knowledge of Mr. Nunley. Attached as **Exhibit**
19 **H** is a true and correct copy of the email correspondence from Ace Attorney Service to our
20 Firm providing a status update for Mr. Nunley with the address redacted.

21 c. By January 17, 2024, we had learned of a possible new address for
22 Mr. Nunley in Suisun City, California, and have attempted again to serve him there via
23 Ace Attorney Service. Ace Attorney Service attempted to serve Mr. Nunley on January 20
24 and January 23, 2024 with no success. Attached as **Exhibit I** is a true and correct copy of
25 the email correspondence from Ace Attorney Service to our Firm providing a status update
26 for Mr. Nunley with the address redacted On or about January 23, 2024, I emailed
27 Defendants Nunley's counsel in the matter *United States v. Nunley*, No. 23-CR-00213
28 YGR, to confirm the address and to ask whether counsel would accept service on his

1 behalf. Attached hereto as **Exhibit J** is a true and correct copy of my email with the
2 address information redacted.

3 4. Plaintiffs have attempted to serve Defendant **Lieutenant Jones** in this matter
4 as follows:

5 a. In compliance with FRCP Rule 4(i)(3) we served the United States for
6 Lieutenant Jones on October 27, 2023 (United States Attorneys' Office) and November 3,
7 2023 (Attorney General of the United States).

8 b. We have not yet been able to determine this Defendants' full name
9 and address for personal service. On January 24, 2024, we served an interrogatory on the
10 BOP to seek this information.

11 5. Plaintiffs have attempted to serve Defendant **Officer Lewis** in this matter as
12 follows:

13 a. In compliance with FRCP Rule 4(i)(3) we served the United States for
14 Officer Lewis on October 27, 2023 (United States Attorneys' Office) and November 6,
15 2023 (Attorney General of the United States).

16 b. We have not yet been able to determine this Defendants' full name
17 and address for personal service. On January 24, 2024, we served an interrogatory on the
18 BOP to seek this information.

19 6. Plaintiffs have attempted to serve Defendant **Officer Serrano** in this matter
20 as follows:

21 a. In compliance with FRCP Rule 4(i)(3) we served the United States for
22 Officer Serrano on October 27, 2023 (United States Attorneys' Office) and November 6,
23 2023 (Attorney General of the United States).

24 b. We have not yet been able to determine this Defendants' full name
25 and address for personal service. On January 24, 2024, we served an interrogatory on the
26 BOP to seek this information.

27 7. Plaintiffs have attempted to serve Defendant **Officer Vasquez or Vazquez**
28 in this matter as follows:

1 a. In compliance with FRCP Rule 4(i)(3) we served the United States for
2 Officer Vasquez or Vazquez on September 14, 2023 (United States Attorneys' Office) and
3 September 18, 2023 (Attorney General of the United States).

4 b. We have not yet been able to determine this Defendants' full name
5 and address for personal service. On January 24, 2024, we served an interrogatory on the
6 BOP to seek this information.

7 I declare under penalty of perjury under the laws of the United States of America
8 that the foregoing is true and correct, and that this declaration is executed at San Francisco,
9 California this 26th day of January, 2024.

10

11

/s/ Ernest Galvan

12 Ernest Galvan

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EXHIBIT A

USPS Tracking®

FAQs >

Tracking Number:

Remove X

70183090000015569631

[Copy](#)

[Add to Informed Delivery](https://informeddelivery.usps.com/) (<https://informeddelivery.usps.com/>)

Latest Update

Your item was returned to the sender on October 26, 2023 at 3:29 pm in SAN FRANCISCO, CA 94105 because it could not be delivered as addressed.

Get More Out of USPS Tracking:

[USPS Tracking Plus®](#)

Alert

Return to Sender

SAN FRANCISCO, CA 94105
October 26, 2023, 3:29 pm

Feedback

In Transit to Next Facility

October 16, 2023

Departed USPS Regional Facility

TALLAHASSEE FL DISTRIBUTION CENTER
October 12, 2023, 10:04 pm

Arrived at USPS Regional Facility

TALLAHASSEE FL DISTRIBUTION CENTER
October 12, 2023, 10:03 am

Arrived at USPS Regional Facility

JACKSONVILLE FL DISTRIBUTION CENTER
October 11, 2023, 11:09 pm

Arrived at USPS Regional Facility

GAINESVILLE FL DISTRIBUTION CENTER

October 7, 2023, 4:31 am

Unclaimed/Being Returned to Sender

CRAWFORDVILLE, FL 32327

October 3, 2023, 8:49 am

Reminder to Schedule Redelivery of your item

September 23, 2023

Notice Left (No Authorized Recipient Available)

CRAWFORDVILLE, FL 32327

September 19, 2023, 11:45 am

Notice Left (No Authorized Recipient Available)

CRAWFORDVILLE, FL 32327

September 18, 2023, 12:33 pm

Out for Delivery

CRAWFORDVILLE, FL 32327

September 18, 2023, 6:23 am

Arrived at Post Office

CRAWFORDVILLE, FL 32327

September 18, 2023, 6:12 am

Arrived at USPS Regional Facility

JACKSONVILLE FL NETWORK DISTRIBUTION CENTER

September 16, 2023, 2:09 am

Arrived at USPS Regional Facility

SAN FRANCISCO CA DISTRIBUTION CENTER

September 14, 2023, 7:12 pm

[Hide Tracking History](#)

[What Do USPS Tracking Statuses Mean? \(<https://faq.usps.com/s/article/Where-is-my-package>\)](#)

Text & Email Updates



USPS Tracking Plus®



Product Information



See Less

Track Another Package

Enter tracking or barcode numbers

Need More Help?

Contact USPS Tracking support for further assistance.

FAQs

EXHIBIT B

ALERT: SEVERE WEATHER CONDITIONS ACROSS THE U.S. MAY DELAY FINAL DELIVERY OF Y...

USPS Tracking®

[FAQs >](#)

Tracking Number:

[Remove X](#)

70183090000015569693

[Copy](#)

[Add to Informed Delivery \(https://informeddelivery.usps.com/\)](https://informeddelivery.usps.com/)

Latest Update

Your item could not be delivered on December 4, 2023 at 12:53 pm in CRAWFORDVILLE, FL 32327. It was held for the required number of days and is being returned to the sender.

Get More Out of USPS Tracking:

[USPS Tracking Plus®](#)

Alert

Unclaimed/Being Returned to Sender

CRAWFORDVILLE, FL 32327

December 4, 2023, 12:53 pm

Feedback

Reminder to Schedule Redelivery of your item

November 8, 2023

Notice Left (No Authorized Recipient Available)

CRAWFORDVILLE, FL 32327

November 3, 2023, 1:19 pm

In Transit to Next Facility

October 31, 2023

Arrived at USPS Regional Facility

SAN FRANCISCO CA DISTRIBUTION CENTER

October 27, 2023, 10:38 pm

● Hide Tracking History

What Do USPS Tracking Statuses Mean? (<https://faq.usps.com/s/article/Where-is-my-package>)

Text & Email Updates



USPS Tracking Plus®



Product Information



See Less ▲

Track Another Package

Enter tracking or barcode numbers

Need More Help?

Contact USPS Tracking support for further assistance.

FAQs

EXHIBIT C

Linda Woo

From: Aida@acelegal.com
Sent: Tuesday, November 28, 2023 3:27 PM
To: Linda Woo; AIDA@ACELEGAL.COM; DANNY@ACELEGAL.COM
Subject: Status Update-Control# 2253922 Ref# IMAN-DMS.FID66630

[EXTERNAL MESSAGE NOTICE]

ACE ATTORNEY SERVICE STATUS UPDATE

Ordered By: LINDA WOO

Control Number: 2253922

Reference: IMAN-DMS.FID66630

Delivery Name and Address:

DARRYL SMITH

Service Type: PDF P3D

Notes:

1ST ATTEMPT: 11/20, 6:25PM / Server arrived at location and the front door is not visible from the end of the driveway at the street. There were two cars parked in car ports. Server honked several times and waited, but did not get a response.

2ND ATTEMPT: 11/22, 6:40AM / Server arrived at the home and could see four cars parked in the front yard area. No contact made after honking several times.

3RD ATTEMPT: 11/25, 4:25PM / Once again there was no contact made. Three cars parked out front, no people seen on property.

**** PLEASE ADVISE HOW TO PROCEED WITH SERVICE ****

EXHIBIT D

Linda Woo

From: Aida@acelegal.com
Sent: Thursday, December 7, 2023 10:38 AM
To: Linda Woo; AIDA@ACELEGAL.COM
Subject: Status Update-Control# 2253922 Ref# IMAN-DMS.FID66630

[EXTERNAL MESSAGE NOTICE]

ACE ATTORNEY SERVICE STATUS UPDATE

Ordered By: LINDA WOO

Control Number: 2253922

Reference: IMAN-DMS.FID66630

Delivery Name and Address:

DARRYL SMITH

Service Type: PDF P3D

Notes:

4TH ATTEMPT: 12/4, 8:15AM / No contact was made and no vehicles were present. Server placed a business card on the mailbox during a previous attempt, and it was still in place.

*****PLEASE ADVISE HOW TO PROCEED WITH SERVICE *****

EXHIBIT E

Linda Woo

From: Aida@acelegal.com
Sent: Wednesday, January 10, 2024 12:38 PM
To: Linda Woo; AIDA@ACELEGAL.COM
Subject: Status Update-Control# 2270492 Ref# IMAN-DMS.FID66630

[EXTERNAL MESSAGE NOTICE]

ACE ATTORNEY SERVICE STATUS UPDATE

Ordered By: LINDA WOO

Control Number: 2270492

Reference: IMAN-DMS.FID66630

Delivery Name and Address:

DARRELL SMITH

[REDACTED]

Service Type: PDF P3D

Notes:

1ST ATTEMPT: 1/8, 5:35PM / Gate to property was open, server gained access to the residence. Three vehicles parked in the driveway. Approached the front door and knocked several times and waited; There was no response.
No noise or movement noted.

2ND ATTEMPT: 1/10, 2:18PM / The gate to the property was closed and locked with a chain. Server unable to gain access to the home.

WE WILL CONTINUE ATTEMPTING

EXHIBIT F

Linda Woo

From: Aida@acelegal.com
Sent: Friday, January 19, 2024 11:45 AM
To: Linda Woo; AIDA@ACELEGAL.COM
Subject: Status Update-Control# 2270492 Ref# IMAN-DMS.FID66630

[EXTERNAL MESSAGE NOTICE]

ACE ATTORNEY SERVICE STATUS UPDATE

Ordered By: LINDA WOO

Control Number: 2270492

Reference: IMAN-DMS.FID66630

Delivery Name and Address:

DARRELL SMITH

[REDACTED]

Service Type: PDF P3D

Notes:

3RD ATTEMPT: 1/16, 8:45AM / Server arrived at location, and the property gates are locked. Unable to gain access to the residence.

4TH ATTEMPT: 1/18, 7:58AM / Server arrived at location, and the property gates remain locked. Unable to gain access to the residence.

EXHIBIT G

Ernest Galvan

From: Benjamin Luke <luke@Defender.Law>
Sent: Friday, January 26, 2024 11:21 AM
To: Ernest Galvan
Cc: Linda Woo; Luma Khabbaz; Kara Janssen; Oren Nimni; Susan Beaty; Cha-Kim, Stephen; Naomi Chung
Subject: Re: USA v. Darrell Wayne Smith, NO. 23-CR-00110-YGR and CCWF et al. v. Darrell Wayne Smith et al., No. 23-cv-4155 YGR [IMAN-DMS.FID66630]

[EXTERNAL MESSAGE NOTICE]

Hello Counsel,

We do not represent Mr. Smith in the civil case. Our firm has only been retained in the criminal matter. Thus, we are not authorized to accept service on his behalf in the civil matter.

However, I can confirm that the address you provided is correct.

Thank you,
Ben

**HICKEY
& CHUNG**

Benjamin P. Luke
Attorney
t. 415.942.9000
f. 415.484.7054
luke@defender.law

Pier 9, Suite 100
San Francisco, CA 94111
www.defender.law

From: Ernest Galvan <EGalvan@rbgg.com>
Date: Wednesday, January 17, 2024 at 3:28 PM
To: Naomi Chung <Chung@Defender.Law>, Benjamin Luke <luke@Defender.Law>
Cc: Linda Woo <lwoo@rbgg.com>, Luma Khabbaz <LKhabbaz@rbgg.com>, Kara Janssen <KJanssen@rbgg.com>, Oren Nimni <oren@rightsbehindbars.org>, Susan Beaty <susan@ccijustice.org>, Cha-Kim, Stephen <Stephen.Cha-Kim@arnoldporter.com>
Subject: USA v. Darrell Wayne Smith, NO. 23-CR-00110-YGR and CCWF et al. v. Darrell Wayne Smith et al., No. 23-cv-4155 YGR [IMAN-DMS.FID66630]

Dear Counsel:

I represent the plaintiffs in the civil action, CCWF et al. v. United States, Darrell Wayne Smith, et al., No. 23-cv-4155 YGR. Despite diligent efforts, I have not been able to complete service of the civil summons and complaint on your client, Mr. Smith. My process server has attempted service numerous times at the last known address we have for Mr. Smith, which is [REDACTED]. The process server has been to the address on several occasions on which there were vehicles parked in the driveway, and the gate was open, but no one responded at the

door. Service was attempted on 1/20/24, 1/8/24, 11/25/23, 11/20/23, 11/22/23. We have also attempted service twice by U.S. Certified Mail, however he has not responded to USPS notices of attempted delivery.

I presume that his conditions of pre-trial release require him to be at this address, although the conditions are currently under seal and I cannot access them on Pacer.

At this point, I am prepared to ask Judge Gonzalez Rogers to unseal the pretrial release conditions, so that I can confirm the address that way, and to file a motion in the civil case seeking leave to serve by publication. Before I do so, I am reaching out to you with two questions:

1. Are you authorized to accept service on Mr. Smith's behalf?
2. Can you confirm a proper address for personal service?

Please respond **by Friday, January 19, 2024**, as I am working under an early February deadline to complete service.

Thank you.

Ernest Galvan
ROSEN BIEN GALVAN & GRUNFELD LLP
101 Mission Street, 6th Floor
San Francisco, CA 94105
(415) 433-6830 (telephone)
(415) 296-2293 (direct)
(415) 694-3606 (mobile)
(415) 433-7104 (fax)
egalvan@rbgg.com

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EXHIBIT H

Linda Woo

From: abigail@acelegal.com
Sent: Wednesday, September 20, 2023 3:35 PM
To: Linda Woo; SFPROCESS@ACELEGAL.COM
Subject: Status Update-Control# 2231710 Ref# CA COALITION V. USAFBOP

[EXTERNAL MESSAGE NOTICE]

ACE ATTORNEY SERVICE STATUS UPDATE

Ordered By: LINDA WOO

Control Number: 2231710

Reference: CA COALITION V. USAFBOP

Delivery Name and Address:

NAKIE NUNLEY

[REDACTED]

Service Type: PDF P3D

Notes:

09/19 @ 5:00pm PER JANE DOE (SPOKE THROUGH SCREEN DOOR) STATES SHE JUST BOUGHT HOME AND MOVED IN LAST MONTH.

SUBJECT IS UNKNOWN. SUBJECT DOES NOT LIVE OR RECEIVE MAIL HERE. THIS IS A BAD ADDRESS.

PLEASE ADVISE HOW YOU WOULD LIKE TO PROCEED.

EXHIBIT I

From: [Abigail Marie Smith](#)
To: [Linda Woo](#); [Service of Process Department-Bay Area](#)
Subject: Status Update-Control# 2275714 Ref# 672-7
Date: Thursday, January 25, 2024 10:14:11 AM

ACE ATTORNEY SERVICE STATUS UPDATE

Ordered By: LINDA WOO

Control Number: 2275714

Reference: 672-7

Delivery Name and Address:
NAKIE NUNLEY
[REDACTED]

Service Type: PDF P3D

Notes:

1/20 @ 12:49PM SERVER DISPATCHED TO ADDRESS. NO ANSWER
AT THE DOOR AFTER KNOCKING SEVERAL TIMES. NO MOVEMENT
HEARD, QUIET INSIDE.

1/23 @ 8:51PM SERVER DISPATCHED TO ADDRESS. NO ANSWER
AT THE DOOR. NO MOVEMENT OR ACTIVITY HEARD.

EXHIBIT J

Ernest Galvan

From: Ernest Galvan
Sent: Tuesday, January 23, 2024 3:35 PM
To: 'tpori1@gmail.com'
Cc: Linda Woo; Luma Khabbaz; Kara Janssen; Oren Nimni; Susan Beaty; Cha-Kim, Stephen
Subject: USA v. Nakie Nunley, NO. 23-CR-00213-YGR and CCWF et al. v. Nakie Nunley et al., No. 23-cv-4155 YGR [IMAN-DMS.FID66630]
Attachments: Dkt 001 Civil Complaint, 08-16-23, 672-7(4340143.4).pdf; Dkt 024 Summons, 09-13-23, 672-7(4358605.1).pdf; Dkt 001-1 Civil Cover Sheet, 08-16-23, 672-7(4340144.1).pdf

Dear Counsel:

I represent the plaintiffs in the civil action, CCWF et al. v. United States, Nakie Nunley, et al., No. 23-cv-4155 YGR. Despite diligent efforts, I have not been able to complete service of the civil summons and complaint on your client, Mr. Nunley. My process server has attempted to serve Mr. Nunley at the last known address we have found for him, which is [REDACTED]. We have also attempted service by U.S. Certified Mail.

I presume that his conditions of pre-trial release require him to be at this or some other address, although the conditions are currently under seal and I cannot access them on Pacer.

At this point, I am prepared to ask Judge Gonzalez Rogers to unseal the pretrial release conditions, so that I can confirm the address that way, and to file a motion in the civil case seeking leave to serve by publication. Before I do so, I am reaching out to you with two questions:

1. Are you authorized to accept service on Mr. Nunley's behalf?
2. Can you confirm a proper address for personal service?

Please respond **by Friday, January 26, 2024**, as I am working under an early February deadline to complete service.

Thank you.

Ernest Galvan
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101 Mission Street, 6th Floor
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egalvan@rbgg.com

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